

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

MILO and LOIS KENTERA,

Plaintiffs,

v.

Case No. 2:16-cv-01020-JPS

UNITED STATES OF AMERICA,

Defendant.

JOINT RULE 26(f) REPORT

Plaintiffs, Milo and Lois Kentera, and defendant, United States of America, by and through undersigned counsel submit the following report pursuant to the Notice entered November 3, 2016 (doc. 7).

1. Nature of the Case.

This case concerns the assessment by the Internal Revenue Service of civil penalties under 31 U.S.C. § 5321 against Milo Kentera (\$40,500) and Lois Kentera (\$10,500) for the years 2006 through 2010. The penalties were assessed based on the IRS's determination that the Kenteras failed to file a Form TD F 90-22.1, Report of Financial Bank and Financial Accounts (known as "FBAR"), for each of those years and that the failure to file was non-willful. The requirement to file FBARs is set forth in the Bank Secrecy Act, at 31 U.S.C. § 5314. The complaint seeks judicial review of the IRS's actions in making the assessments pursuant to the Administrative Procedures Act, and a declaratory judgment holding that the assessments are null and void. The United States has yet to answer or otherwise respond to the complaint.

2. Fed. R. Civ. P. 26(f) Matters.

a. Counsel for each party met on November 17, 2016, by telephone to develop this report and discuss the case as required by Rule 26(f) of the Federal Rules of Civil Procedure.

b. Any motion for leave to join additional parties or to otherwise amend the pleadings shall be filed by January 17, 2017.

c. Discovery Plan.

i. The parties shall exchange by January 17, 2017, the information required by Fed. R. Civ. Procedure 26(a)(1).

ii. The parties do not anticipate using expert witnesses in this case.

iii. Discovery may be needed on the following subjects and does not need to be conducted in phases:

- Allegations set forth in the complaint regarding the plaintiffs' failure to file FBARs for the years at issue;
- Actions taken by the IRS regarding the assessment of the FBAR penalties;
- Allegations set forth in the answer and/or counterclaim.

iv. All discovery shall be commenced or served in time to be completed by May 31, 2017.

v. The parties do not anticipate any issues about disclosure or discovery of ESI at this time. Non-privileged ESI will be produced in paper form, unless otherwise agreed to by the parties.

vi. The parties do not anticipate any issues about claims of privilege or work product protection at this time and do not require any agreement on this subject to be included in the Court's scheduling order. The parties agree to handle inadvertent

disclosures of privileged or protected information as set forth in Fed. R. Civ. P.
26(b)(5)(B) and Fed. R. Evid. 502(b)(3).

- vii. Dispositive motions shall be filed on or before June 30, 2017.
- viii. No changes should be made in the in the limitations on discovery imposed under the Federal Rules of Civil Procedure. The parties do not require any other orders under Rule 26(c) or 16(b) at this time.

Respectfully submitted,

/s/ Anthony Diosdi
ANTHONY DIOSDI
Moskowitz, LLP
180 Montgomery Street, #1950
San Francisco, CA 94104
Tel: 415.394.720
Fax: 451.398.6501
Email: adiosdi@moskowitzllp.com
Attorney for Plaintiffs

GREGORY J. HAANSTAD
United States Attorney

/s/ Martin M. Shoemaker
MARTIN M. SHOEMAKER
U.S. Dept. of Justice, Tax Division
P.O. Box 7238
Washington, DC 20044
202-514-6491 (phone)
202-514-6770 (fax)
Martin.m.shoemaker@usdoj.gov
Attorney for Defendant